IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 26074 of 2001

Between:

Meesala Muralidhar, S/o. Rama Rao.
R/o. Neeladevipuram, Hiramandal,
Srikakulam.

..... PETITIONER

AND

1 The government. of A.P., rep. Secretary.
Irrigation and Command Area Development (Projects) Working

Department.,Secretariat Buildings, Hyderabad.
2 The District Collector, Srikakulam.
Srikakulam District.
3 The Project Administrator and the Superintending Engineer,

Vamsadhara Project Circle,
Srikakulam District..

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court

will be pleased to issue a writ, order or direction especially one in the nature of the Writ of Certiorari calling for records pertaining to O.A.No.5531/2000 dated 24/11/2000 of A.P.Administrative Tribunal and further declare that the petitioner is entitled to be appointed as Draughtsman Grade-III/Tracer and pass such order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.M.SURENDER RAO

Counsel for the Respondent No.: GP FOR SERVICES II

The Court made the following :

ORDER: (per P.S. Narayana.,J)

The short but oft vexed question which falls for consideration in this Writ Petition is whether the arms of the expression “displaced person” can be stretched too far so as to engulf in its fold persons who had lost just a tiny piece of land in the large extent owned by the family not affecting the principal means of livelihood of the family dependent on such agriculture and not having nexus to the said acquisition of land for the purpose of a Project or the like purposes. Quite often both Central and the State Governments have been adopting this mode of consideration of cases in the case of public employment under the category of displaced persons quota which is akin to the reservation quotas affecting the right of equal opportunity to public employment which has been enshrined by our Constitution.

2. The writ petitioner filed the present Writ Petition questioning the order dated 24-11-2000 made in O.A.No.5531/2000 on the file of A.P. Administrative Tribunal, in short referred to as "Tribunal" hereinafter. The order impugned in the O.A. in D.Dis.No.3282/2000, dated 9-8-2000 of the 2nd respondent/District Collector, Srikakulam, reads as hereunder :

> "Sri Meesala Murali Dhar S/o. Rama Rao, resident of Neeladevipuram Village in Hiramandalam Mandal of Srikakulam District who applied for employment under the provision of Rehabilitation of displaced persons is hereby informed that his application was not considered for the following reason :
>
> 1. The applicant and his father are having lands roughly measuring Ac.10-97 cents. Hence in accordance with the Govt. Memo No.188/LAR(2)/89-6 dated 19.4.1990, the applicant is not eligible."

The Tribunal in the order impugned in the present Writ Petition referred to supra, at para-5 had stated :

> "It is undisputed fact that the applicant's family owns Ac.11-09 cents of land and out of this land only 12 cents of land alone was acquired under Vamsadhara Project. Further it is also undisputed case that the applicant's family still possesses Ac.10-97 cents of land for their cultivation purpose. Thus, it is evident that a very meager extent of land was acquired by the Government and a major portion of the land is still in possession of the applicant's family. Further it can be safely said that by acquisition of this 12 cents of land, the income derived by the applicant's family through agriculture is not affected adversely. It is the case of the applicant that in pursuance of G.O.Ms.No.98 dated 15-4-1986, the respondents cannot deny the rights of the applicant. On perusal of G.O.98 it can be seen that the same is intended for giving employment to displaced families or their dependents as a scheme of rehabilitation. But, in the instant case the applicant's family is

not displaced from their land, and a just 12 cents of land is acquired out of Ac.11-09 cents. In this view of the matter, the applicant cannot be given the status of displaced persons. Thus, there are no grounds to hold that the applicant's family is a displaced family and their livelihood is affected by acquisition of 12 cents of land for Vamsadhara Project. Hence, we are of the opinion that the applicant is not entitled to seek relief under G.O.Ms.No.98, dated 15-4-1986."

The said G.O.Ms.No.98, dated 15-4-1986, reads as hereunder :

GOVERNMENT OF ANDHRA PRAESH

A B S T R A C T

Major & Medium Irrigation Projects – Rehabilitation – Provision of employment to the displaced parents or their dependents – Orders – Issued.

Irrigation (Project Wing) Department

G.O.Ms.No.98 Dated : 15.4.1986

Read the following :-

1. G.O.Ms.No.676, Irrigation & Power Department, dated 17.11.1978.
2. From the Chief Engineer General, Lr.No.Gel.H1/41162/80-1, dated 1.8.80.
3. From the Secretary, A.P.S.C. Lr.No.2718/K-4/84, dated 28.8.84.

....

ORDER:

The Government have issued orders in the G.O 1st read above

the reference in recruitment to post equivalent to LDC (Now Junior Asst./Typist and the Cadres below, in Projects should be given to the eligible displaced persons of their dependents i.e., son, daughter/spouse whose names are furnished by the respective Collectors. The Collectors were requested to draw a list of those eligible displaced persons for the above jobs in the Projects and forwarded to the Projects authorities for making appointment to the categories indicated above the project area. It was ordered that the rule of reservation should be adhered to within the District.

2. It was brought to the notice of the Government by the then Chief Engineer, General, in the reference 2nd read above, that the candidates appointed in projects as per the G.O. 1st read above have to be released by the regular candidates allotted by the Andhra Pradesh Public Service Commission. He has stated that in such benefit to the displaced families/their dependents will be defected and recommended that the order in G.O.Ms.No.676 appointment of dependents departments.

3. Government have carefully examined the proposal on consultation with APPSC to provide jobs to the displaced person of the Project/their dependent on a regular basis to keep such appointment out side the purview of the APPSC and to reserve certain percentage of posts in the projects for the displaced persons to ensure their appointment.

4. After careful examination and consideration, the following orders are issued in supersession of orders in G.O.Ms.No.676, Irrigation & Power Department, dated 17.11.1978.

i. Not more than 50% of the vacancies of the categories equivalent to Junior Assistant/Typists and the cadres below arising in Major & Medium Irrigation and Power Projects should be filled up by the displaced Families or their dependents of a respective project duly following the reservation for various categories viz., S.C., S.T., B.C., Ex-Servicemen, Physically handicapped, meritorious sportsman etc.

ii. The candidates eligible for appointment under this scheme shall be the displaced persons or his/her son, daughter or spouse/there being no other earning member in the family.

iii. Applications for appointment from the eligible candidate

shall be made to the District Collector, concerned within a period of one year from the date of actual displacement of the family. Preference shall be given with reference to the date of displacement and to these applicants whose houses and lands are acquired against those whose land or house only is acquired. The District Collector shall draw up a list of such application and forward the same to the District Authorities for appointment.

iv. All appointments made in this scheme shall be temporary to start with. However, the service of these employees will be regularized in the categories of posts should pay is equal or less than that of Junior Assistant.

v. The temporary appointment or the persons employed under this scheme can be considered for regular appointment without subjecting them to normal process or recruitment rules, provided they satisfy other candidates of recruitment prescribed, in the rules such as age, and educational may be made to the employment exchange and after filling up the vacancy the appointing authority will furnish relevant particulars of the candidate to the employment exchange covering the area.

vi. The regular appointment made under the scheme shall be kept outside the purview of the APPSC regulations shall be issued separately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

T.K. Prasad

Secretary to Government

Memo No.188 LAR (2) 89-6, dated 19-4-1990 reads as hereunder :

GOVERNMENT OF ANDHRA PRADESH

IRRIGATION & C.A.D. (Project Wing) DEPARTMENT

Memo No.188 LAR(2) 89-6 Dated 19-04-1990

Sub: Rehabilitation – Provision of employment to displaced persons certain clarification sought for – Clarification – Issued.

Ref: 1) G.O.Ms.No.98, Irrigation & CAD (PW) Department dt.15-4-1986

2) Govt.Memo No.1830/LAR(2) 87-2, dt.7-10-87

3) Govt. Memo No.1830/LAR(2) 87-7, dt.20-4-88

4) From Dist. Collector, Kurnool, Lr.No.Rc.D7/2526/88, dt.4-2-89

5) From CLR Ref.no.SRP1/247/88, dt.3/89

In view of the circumstances, I reported by the District Collector, Kurnool and the Commissioner of Land Revenue in their reference fourth and fifth cited respectively, the following clarification are issued to the order contained in the reference 1st to 3rd cited.

1. The loss of his dwelling house along does not make displaced person eligible for employment. Only the loss of cultivable lands, or their the displaced person is left only with very little land whereby his livelihood has been seriously affected, has to be taken into consideration. For practical purpose, only person who have less than only one acre left will be eligible to be considered for employment.

2. No employment need be given to Srisailam Right Branch Canal and Telugu Ganga project where no villages have been submerged.

3. Those affected person who apply for and are found

eligible for employment in terms of orders issued in G.O.Ms.No.98 dt.15-4-1986. Memo No.1830/LAR(2)/87-2, dt.7-10-87 and Memo No.1830/LAR(2) 87-7, DT.20-4-88 (1st to 3rd cited) read with the clarification issued above should be given an understanding to the effect that they have not and will not agitate their claims for enhanced compensation in any Court of Law.

4. These instructions will come into force with immediate effect.

D.Chakrapani

Deputy Secretary to Government.

3. On the strength of the material available on record, submissions at length were made relating to the expression “displaced person” and the persons in whose favour such benefits may have to be extended and reliance also was placed on a decision of the single Judge of this Court dated 29-11-1993 in W.P.No.14931/93.

4. The writ petitioner is a Diploma Holder in Mechanical Engineering and belongs to BC-D Group and it is stated that the lands of the family had been acquired for the purpose of Vamsadhara Project and an award was made on 18-3-1981 and the monthly income of the family would be Rs.900/-. The petitioner made an application for appointment to the post of Draughtsman, Grade-III and made a request to consider the case for appointment by giving preference as a displaced person – land oustee and along with his application a

cheque memo issued by the Special Deputy Collector, Land Acquisition, Vamsadhara Project in Forms I and II also had been enclosed. It is stated that in the cheque memo it is mentioned that there was no other earning member in the family, but however the District Collector by order dated 9-8-2000 rejected his application for appointment on the ground that the family of the petitioner possessed some more land. The said rejection was issued with reference to the Government Memo No.188 LAR (2) 89-6, dated 19-4-1990. It is also stated that an extent of 12 cents belonging to the petitioner's father was acquired for Vamsadhara Project from out of the total extent of Acs.11-09 cents of the family and full compensation was paid for the acquired land as per the provisions of the Land Acquisition Act. Reliance also was placed on the Memo referred to supra and further it was stated that there are other displaced persons whose lands had been acquired and whose left over lands are far below Ac.1-00 and their cases are to be considered to provide employment under displaced persons quota from within the meager posts reserved under the category and hence it is not possible to provide employment under displaced persons quota to a person having Acs.10-97 cents left over land as on the date.

5. G.O.Ms.No.98 envisages compassionate appointment to displaced persons on account of loss of their only source of living and intended to offset the said loss. It is no doubt true that the District

Collector had referred to Govt. Memo No.188 LAR(2) 89-6, dated 19-4-1990. It is also no doubt true that a learned Single Judge in W.P.No.14931/93 had arrived at a conclusion that such memos cannot override the effect of a G.O. issued under Article 162 r/w. Article 166 of the Constitution of India and hence the writ petitioner is entitled to be considered for appointment pursuant to G.O.Ms.No.98, dated 15-4-1986 in reference to Memo No.1502, dated 22-8-1987 and Memo No.188, dated 19-4-1990.

6. The expression “displaced person” is not defined in the present context. It is needless to say that the definition may be restrictive or extensive and so also the interpretation thereof. Section 3 of the General Clauses Act 1897 deals with definitions. Though the expression “displaced” is not defined, the word “person” is defined under Section 3(42) of the Act which may not be very relevant in the present context. The expression “displaced person” no doubt in a different context had been defined in the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and Displaced Persons (Debt Adjustment) Act, 1951 etc. This expression in the said context and the ambit thereof had been considered in **SUKH LAL Vs. STATE BANK OF INDIA, CALCUTTA , BHIM SEN Vs. SAVITRI** and **JAMMU & KASHMIR BANK LTD. Vs. RAWINDAN .** It is no doubt true that a sound principle of construction to interpret the expressions used in one Act with reference to yet another Act and in a different

context altogether especially when they are not in pari materia may be impermissible [See : **NIPPON YUSEN Vs. RAMJIBEN** , **KUMAR PADMA PRASAD Vs. UNION OF INDIA , RAM NARAIN Vs. STATE OF U.P. , LILA VATI BAI Vs. STATE OF BOMBAY , AHMEDABAD MANUFACTURING AND CALICO PRINTING CO. LTD. Vs. S.G. MEHTA, INCOME TAX OFFICER , STATE OF MAHARASHTRA Vs. MISHRIJAL TARACHAND LODHA , STATE OF PUNJAB Vs. OKARA GRAIN BUYERS SYNDICATE LIMITED, OKARA , GWALIOR RATON SILK MANUFACTURING WEAVING CO. LTD. Vs. CUSTODIAN OF VESTED FORESTS, PALGHAT , BOARD OF MUSLIM WAKFS, RAJASTHAN Vs. RADHA KISHAN** and **S.MOHAN LAL Vs. R. KONDAIAH].** That being so, the ordinary dictionary meaning may have to be looked into in this regard. In Law Lexicon by Sri P.Ramanatha Aiyar, on the aspect of "displaced person" it is stated :

> **"Definition of 'displaced person' refers not only to natural person but also to artificial person such as Corporation *Steel & General Mills Ltd. Vs. General Accident Fire and Life Assurance Corporation Ltd. AIR 1952 Punjab. 229.*[Displaced Person (Institution of suits) Act 1948, S.3]**
>
> **Defines 'Displaced person' as a person who has left or been displaced from his place of residence in any area now forming part of West Pakistan and includes any person who is a resident in any place now forming part of India and who is unable to manage his property in West Pakistan. *Hardas Singh v. Ram Prasad,* AIR 1954 Pepsu 110. [Displaced Person (Debts Adjustment) Act 1951, (70 of 1951) S.2(10)].**
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> **It is not correct to say that the phrase 'displaced person' refers only to natural persons and not to artificial persons, like a company.**

AIR 1952 Punjab 229 followed. *Punjab National Bank Ltd. Vs. Punjab Property Development Co.* AIR 1958 Punj. 57, 59.

A person is displaced person or not can be determined only with reference to his domicile, that is, where he is residing on a permanent basis. *Bhim Sen V. Savitri* AIR 1966 All. 247, 248.

Displ**aced person. Person left homeless in his own country because of war or for other reason. (*Black's Law Dict.*)"**

In West's Legal dictionary it is stated with reference to 'displaced person' as hereunder :

"See emigrant, immigrant, exile, tramp(1).

In Black's Law dictionary, it is stated with reference to as :

"Person left homeless in his own country because of war or for other reason".

However in the present context irrespective of the Memos, the meaning of the expression "displaced person" may have to be interpreted. The ordinary meaning of the "displaced" means the position relating to the livelihood altered by change of the prior way of life. When an agriculturist if deprived of the lands in toto or at least substantially by virtue of acquisition, such person can be said to fall under the expression "displaced person". It is no doubt true if such restrictive definition had not been incorporated, whether Courts would be justified in interpreting the expression in such a fashion when

equal opportunity to employment subject to certain reservations has been cherished by our Constitution. These benefits which are being conferred by G.Os. of this nature are in deviation of the general principles and extensive interpretation or technical interpretation to the effect that even if a person or a family deprived of a bit of land which has no reasonable nexus to the deprivation of the principal means of livelihood when the left over land is very vast and large, would fall within the said expression for the purpose, will lead to absurdity and would be contravening the very Constitutional principles and hence such interpretation may have to be avoided since it would amount to doing violence to Article 16 of the Constitution of India. It is no doubt true while dealing with the aspect of nexus in between the acquisition of land and the deprivation of the principal means of livelihood of the family or dependents of the family on such agriculture, to give a free hand to bureaucracy to select and prepare the list of candidates in the absence of a definition or specific guidelines may quite often result in arbitrary exercise of power in preparing such select lists. Hence, it would be always advisable and suggestible to have clearly defined guidelines in this regard. Suffice to state that while introducing such schemes or benefits by virtue of G.Os. the respective Governments should be careful and cautious since such displaced persons quotas are being created by way of compensatory measures and in deviation of the principle of equal

opportunity to have employment. In the light of the foregoing discussion, though the learned single Judge in the decision referred to supra held that the Memos cannot override the G.O. referred to supra, the finding arrived at by the Tribunal that in the light of the fact that a large extent of land had been left over to the family and hence the writ petitioner would not fall within the meaning of "displaced person" cannot be found fault since such interpretation is just and reasonable in the facts and circumstances of the case dehors the Memo which had been referred in the order made by the 2nd respondent/District Collector, Srikakulam.

7. In view of the same, the Writ Petition is devoid of merit and accordingly the same shall stand dismissed. No costs.

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Justice G.Bikshapathy

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Justice P.S. Narayana

Date : -3-2005

L.R. copy to be marked : YES / NO

AM

To:

One fair copy to Hon'ble Sri Justice G.Bikshapathy (for his Lordship's kind perusal)

One fair copy to Hon'ble Sri Justice P.S. Narayana (for his Lordship's kind perusal)

1 Secretary, Irrigation and Command Area Development (Projects)

Working Department, Secretariat Buildings, Hyderabad.

2 The District Collector, Srikakulam.

Srikakulam District.

3 The Project Administrator and the Superintending Engineer,

Vamsadhara Project Circle,
Srikakulam District..

4. 2 C.Cs. to Government Pleader for Services-II,

High Court of Andhra Pradesh,

Hyderabad.

5. **8** L.R. copies

6. The Under Secretary, Union of India, Ministry of Law, Justice

and Company Affairs, New Delhi.

7. The Secretary, A.P. Advocates Association Library, High court

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9) The Registrar, A.P. Administrative Tribunal, High Court (OUT).

*Form-NIC-OGS/WP{**VR**}*